IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 19TH OCTOBER 2007 / 27TH ASWINA 1929

WP(C).No. 29808 of 2007(W)

PETITIONERS:

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1. SABU JOSEPH, S/O. JOSEPH,
PLATHOTTOM HOUSE, THIDANADU P.O., ERATTUPETTA,
KOTTAYAM DISTRICT.

2. SEBASTIAN JOSEPH,
KALEKKATTIL HOUSE, POONJAR P.O.,
ERATTUPETTA, KOTTAYAM DISTRICT.

3. PETER MATHEW,
PANDALANICKAL HOUSE, MOONNILAVU P.O.,
ERATTUPETTA (VIA), KOTTAYAM DISTRICT.

BY ADV. SRI.P.V.BABY
SRI.A.N.SANTHOSH

RESPONDENTS:

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1. THE MEENACHIL EAST URBAN CO-OPERATIVE
BANK LTD.NO.4266, POONJAR THEKKEKARA P.O.,
KOTTAYAM DISTRICT, REPRESENTED BY ITS
GENERAL MANAGER.

2. THE ELECTORAL OFFICER,
MEENACHIL EAST URBAN CO-OPERATIVE BANK LTD.NO.4266
KOTTAYAM DISTRICT (ASSISTANT REGISTRAR OF
CO-OPERATIVE SOCIETIES (GENERAL), VAIKOM).

3. THE RETURNING OFFICER,
MEENACHIL EAST URBAN CO-OPERATIVE BANK LTD.NO.4266
INSPECTOR OF CO-OPERATIVE SOCIETIES, PALA UNIT,
OFFICE OF THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL), MEENACHIL, PALA.

4. THE KERALA STATE CO-OPERATIVE ELECTION COMMISSION, THIRUVANANTHAPURAM.

5. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL), KOTTAYAM.

ADDL. R6. MADHU KURIAN, S/O. KURIAN, AGED 33 YEARS,
VELLUKUNNEL HOUSE, THIDANADU P.O.,
ERATTUPETTA.

(ADDL. R6 IS IMPLEADED AS PER ORDER ON I.A. NO.14029/07 DATED 19.10.2007).

R1 BY ADV. SRI.SHAJI THOMAS PORKKATTIL
SRI.BINU PAUL

R2 TO R5 BY GOVERNMENT PLEADER (SMT. ANU SIVARAMAN)
ADDL. R6 BY ADV. SHRI K.S. HARIHARAPUTHRAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P.(C). NO.29808 OF 2007 W

PETITIONERS' EXHIBITS:

EXT.P1 TRUE PHOTO COPY OF THE DECISION DATED 17.9.2007 OF THE FOURTH RESPONDENT.

EXT.P2 TRUE PHOTO COPY OF THE ELECTION NOTIFICATION DATED 27.9.2007 ISSUED BY THE FOURTH RESPONDENT.

EXT.P3 TRUE PHOTO COPY OF THE OBJECTION DATED 1.10.2007 SUBMITTED BY THE FIRST PETITIONER BEFORE THE SECOND RESPONDENT.

EXT.P4 TRUE PHOTO COPY OF THE OBJECTION DATED 1.10.2007 SUBMITTED BY THE SECOND PETITIONER BEFORE THE SECOND RESPONDENT.

EXT.P5 TRUE PHOTO COPY OF THE OBJECTION DATED 1.10.2007 SUBMITTED BY THE THIRD PETITIONER BEFORE THE SECOND RESPONDENT.

EXT.P6 TRUE PHOTO COPY OF THE STATEMENT PREPARED BY THE PETITIONERS.

EXT.P7 TRUE PHOTO COPY OF THE PETITION DATED 15.9.2007 SUBMITTED BY THE 2ND PETITIONER BEFORE THE FIFTH RESPONDENT.

EXT.P8 TRUE PHOTO COPY OF THE REPORT DATED 18.9.2007 ALONG WITH RESOLUTION DATED 20.8.2007 OF THE BANK SUBMITTED BY THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES (G), MEENACHIL, PALA BEFORE THE FIFTH RESPONDENT.

RESPONDENT'S EXHIBITS

EXT.R1(A) TRUE SPECIMEN COPY OF THE MEMBERSHIP MINUTES BOOK DATED 10-09-05 SIGNED BY THE CHAIRMAN, GENERAL MANAGER AND 4 DIRECTORS OF THE BOARD.

EXT.R1(B) TRUE SPECIMEN COPY OF THE RELEVANT PAGES FROM THE GENERAL MINUTES BOOK DTD. 10-09-05

K. M. JOSEPH, J.

W.P.C. NO. 29808 OF 2007

Dated this the 19th day of October , 2007

JUDGMENT

Petitioners have approached this court challenging Ext.P2. It is an election notification. Petitioners seek to declare that the members admitted from 1996 onwards without names and other particulars in the minutes books and inclusion of such names of members in the final voters list is illegal and irregular and they are not entitled to exercise their votes in the election scheduled to take place on 21/10/2007 to elect the managing committee members of the first respondent Bank. According to the petitioners they are members of the first respondent society. It is their case that from 1996 onwards members were admitted without their names and other particulars in the minutes book. It is stated that inclusion of such members in the final voters list is illegal. Even though they filed objection to the preliminary voters list, there is no result. They pointed out Ext.P8 also.

2. Counter affidavit is filed by the respondent-bank. According to the Bank there is no merit in the contention at all and

according to the Bank this is the system followed from 1995 onwards. It is stated that there were elections to the managing committee in the year 1997 and 2002 and large majority of members included in the final voters list have exercised their right to vote in the election to the Managing Committee held in the year 1997-2002 and large majority of members included in final voters list have regular banking transactions with the Bank.

3. I heard learned counsel for the parties. I am not inclined to interfere with the election. There is no case for the petitioner that there is violation of Rule 26. Learned counsel for the petitioners submits that even if this court is not inclined to interfere with the matter, at least some arrangement may be made so that votes polled by the members admitted by the present committee in power may be kept in separate boxes. I feel that the said contention can be acceded to. The writ petition is disposed of as follows:

There will be a direction to the third respondent to keep separate boxes in all the booths and see that the votes polled by the members who were admitted after 27/10/2002 shall be kept in separate boxes to be kept in the polling booths. The Returning Officer is free to declare the results. The votes polled by the

members whose votes are kept in separate boxes as aforesaid shall be separately counted. However, results can be declared by the third respondent taking into account the votes polled by all the members including those members whose votes are kept in separate boxes. It is also made clear that the elected candidates can assume charge. I am passing this order after the Government Pleader on instructions submitted that this arrangement can be effected. However it is made clear that election shall not be postponed for the reason that the Returning Officer finds himself unable to carry out this arrangement.

The writ petition is disposed of as above.

K. M. JOSEPH, JUDGE

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